

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA**

KOCH FOODS OF ALABAMA, LLC,)	
an Alabama limited liability company,)	Case No. 07-cv-522-MHT
)	
Plaintiff and Counterclaim-defendant,)	
)	Honorable Myron H. Thompson
v.)	Honorable Terry F. Moorer
)	
GENERAL ELECTRIC CAPITAL)	
CORPORATION,)	
a Delaware corporation,)	
)	
Defendant and Counterclaim-plaintiff.)	

KOCH FOODS' OBJECTION TO GECC'S MOTION FOR LEAVE TO FILE REPLY

Plaintiff and Counterclaim-Defendant, Koch Foods of Alabama, LLC (“Koch”), through its undersigned counsel, files this objection to the Motion filed by General Electric Capital Corporation (“GECC”) for Leave to File Reply in Further Support of its Objections to Order and Protective Order Entered by Magistrate Judge Moorer on November 15, 2007.

1. On November 15, 2007, Magistrate Judge Moorer entered an Order and Protective Order under seal (Doc. 32) (the “Order”). On November 21, 2007, GECC filed its Objection to the Order pursuant to Fed. R. Civ. P. 72(a) and 28 U.S.C. § 636(b)(1)(A) (the “Objection”).

2. On November 27, 2007, Judge Myron H. Thompson entered an order (Doc. 36), directing that GECC's Objections is set for submission, "without oral argument, on 12/14/2007, with *all briefs due by said date.*" (emphasis added).

3. On the issue at hand, GECC has briefed the Court on four occasions: GECC's Sealed Motion (Doc. 26); GECC's Response To Order To Show Cause (Doc. 27); GECC's

Supplemental Brief re Order for Brief Addressing Alabama State Law (Doc. 29); and GECC's Objection to Order and Protective Order (Doc. 33).

4. GECC has exhausted the issue. Moreover, in its original Objection, GECC simply reargued its earlier arguments and did not raise any new arguments, new law, or new facts that would justify disregarding Magistrate Judge Moorer's ruling. Now, in its Motion for Leave to File Reply, GECC again fails to identify any bases, such as new law, new argument, or new facts, that would warrant *another* brief by GECC.

5. GECC has repeatedly argued against any extension of deadline on other issues of this litigation: *See* Objection and Emergency Motion for Protective Order (Doc. 41) and Response to Motion to Compel (Doc. 50). Courts shall not modify a schedule unless the schedule cannot "be met despite the diligence of the party seeking the extension." *Sosa v. Airprint Sys.*, 133 F.3d 1417, 1418 (11th Cir. 1998); *see also* Order Granting GECC's Motion for Protective Order by Magistrate Judge Terry F. Moorer (Doc. 43).

6. GECC has repeated its arguments *ad nauseam*. The District Court has enough information to rule on GECC's Objection.

WHEREFORE, Koch respectfully requests that this Court deny GECC's Motion for Leave to File Reply in Further Support of its Objection.

Dated: December 18, 2007

Respectfully submitted,

/s/ Zhiyuan Xu
Zhiyuan Xu

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CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that copies of the forgoing were caused to be served upon counsel of record addressed as follows by email and the ECF system on this 18th day December, 2007.

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